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California Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

FEB 27 2004

Ms. Victoria Whitney, Division Chief
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, California 95812-2000

Subject: Notice of Petition for Temporary Urgency Change in Permit Term for New
Melones Dam and Reservoir (App. 14858A, 14858B and 19304)

Dear Ms. Whitney:

This letter responds to your February 10, 2004 Notice of Petition for Temporary Urgency Change for New Melones Dam and Reservoir. The Management Agencies (U.S. Fish and Wildlife Service, National Marine Fisheries Service and California Department of Fish and Game) have also reviewed the January 30 and February 9, 2004 letters on this subject from the U.S. Bureau of Reclamation (Reclamation) to the State Water Resources Control Board (Board) and your February 4, 2004 response.

As the Board's notice states, under dry year conditions, D-1641 requires Reclamation to maintain a minimum monthly average flow of 2,280 cfs at Vernalis from February through April 14 and May 16 through June whenever X2 is required to be at or west of Chipps Island. The U.S. Fish and Wildlife Service incorporated this flow requirement into its biological opinion for delta smelt (dated March 5, 1995), because it is important for the protection of delta smelt.

However, the Management Agencies also recognize that under hydrologic conditions, such as we experienced in early February, increasing releases on the Stanislaus River to the rate necessary to meet the Vernalis flow objective (approximately 1,000 cfs) likely would have an adverse impact on salmonid fry rearing in the Stanislaus River below Goodwin Dam and on New Melones Reservoir carryover storage. A managed short-term flow increase of lesser magnitude during a relatively dry period in late January 2003 resulted in Chinook fry moving downstream from the Stanislaus into the Delta where, with low inflows and high export pumping rate, they were soon observed at the CVP fish facilities. To avoid a recurrence of that type of event and because of a concern we share with Reclamation about further depleting the already low storage in New




Melones Reservoir by relying on this source alone, we believe a better option in the future would be for Reclamation to acquire water on the Tuolumne and Merced rivers to spread out the flow contributions needed to comply with the Vernalis flow requirement among the three tributaries.


In the meantime, we are working with Reclamation and the Department of Water Resources in the Water Operations and Management Team (WOMT) weekly meetings to determine the most reasonable plan of operation and best use of available water from New Melones this year, as described in Reclamation's February 9 response to questions 3 and 5. It is important to note that one of WOMT's roles when managing the environmental water is to consider opportunities to: (1) relax standards when hydrologic and biological conditions permit; and (2) exceed protection levels provided by existing standards when hydrologic and biological conditions warrant. We will continue to work with the WOMT regarding the Vernalis flow objective on a monthly basis through June. Reclamation's monthly reports on the previous month's operation and the forecasted operation for the current month will keep the Board informed of progress and actions implemented by Reclamation pursuant to deliberations with the other WOMT agencies.


In closing, we appreciate the Board's attention to this matter. The Management Agencies will continue to work with Reclamation and do not consider it necessary for the Board to schedule a hearing regarding the petition for the temporary urgency change. We understand that the Board may address this as part of its periodic review of the 1995 Bay-Delta Water Quality Control Plan. At that time it will be important to examine the factors that make it difficult for Reclamation to meet this important flow objective at Vernalis solely with CVP water from New Melones Reservoir in some hydrologic conditions and determine options or opportunities that will assist in meeting the Vernalis flow objective more frequently.

Should you require additional information, please contact Mr. Roger Guinee (FWS) at (916) 414-6537, Mr. Jim White (CDFG) at (916) 653-3540, or Mr. Brian Kinnear (NMFS) at (916) 930-3609.

Sincerely,


Wayne S. White
Field Supervisor


Michael E. Aceituno
Supervisor, Sacramento Area Office


Diana F. Jacobs
Deputy Director

cc:

Ms. Gita Kapahi, SWRCB, Sacramento, CA
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